## APPENDIX

## A, B AND D

The Petitioner, Robert D. Young, adopts and incorporates the Appendex filed in this Court by Co-Petitioner Martino which includes the decision Martino v. United States, 648 F2d 367 (5th Cir. 1981) and the denial of the Petition for Rehearing and Suggestions for Rehearing En Banc.

**APPENDIX C**

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

---

NO. 78-5260

---

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

ROBERT D. YOUNG,

Defendant-Appellant

---

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

---

**PETITION FOR REHEARING**

GUY E. LABALME, ESQUIRE
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Suite 409
Tampa, Florida 33602
(813) 229-1172

Counsel for Appellant

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

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No. 78-5260

---

UNITED STATES OF AMERICA

Plaintiff-Appellee

versus

ROBERT D. YOUNG

Defendant-Appellant.

---

PETITION FOR REHEARING

ROBERT D. YOUNG, through undersigned counsel, moves for rehearing in this cause per Rule 40, Federal Rules of Appellate Procedure, since this Court has overlooked or otherwise not considered the following:

I.

This Court still must rule on the Motion to Strike Part of Appellee's Brief filed with it on March 12, 1980, by Appellant YOUNG. Basis for this Motion was hearsay testimony barred by the trial court (82: 76-78; 83, 84) when the Honorable William Terrell Hodges granted defendant counsel's Motion in Limine or, Alternatively, Motion to Strike (3: 70). (fn.1).

Accordingly, appellee's reference to this prior act (50: 313, 314) is impermissible, prejudicial commentary that prohibits equitable consideration of appellant's cause.

The government's March 17, 1980 Response to Appellant Young's Motion toStrike Part of Appellee's Brief in turn was answered by Appellant Young's Reply to Appellee's Response of March 29, 1980.

No ruling even was handed down by this Court on the aforegoing, which confirms the belief that, given the voluminoustestimony presented to this Court for review, defendant Young was once again "...lost in the shuffle".

Mr. Young's cause should be reheard, if only for this prejudicial oversight that directly affects his right to a fair and equitable rehearing on all matters brought before this Court.

II.

This Court's opinion (at p. 8265) classifies Robert D. Young as one of "The Dissatisfied Owners". This is incorrect. No evidence was presented at trial that Mr. Young was owner of the 1907-1915 North Armenia Avenue property; contra, this property solely was owned by defendant John Fisher. (Vol. 50, p. 315).

This damaging oversight is further proof that the appellant Young, as he stated at sentencing, "...was lost in the shuffle".

The Armenia fire of April 13, 1976 allegedly involving insurance representative Young, was the last in chronological time alleged in the conspiracy. The evidence at trial clearly showed that "Willie the Torch" Noriega was known or otherwise suspected to be involved in arson activities long before this last fire.

Therefore, as a street-wise insurance representative, why would appellant Young associate with the highly suspect Noreiga at so late a date in the affairs of the so-called Enterprise?

Moreover, the Government's indictment (at p. 5) stated that:

> "It was further a part of the conspiracy that, among other things, JOSEPH CARTER, a/k/a "Joe", would direct members of the Enterprise to particular insurance agencies for the purpose of acquiring fire insurance coverage on property intended for burning in order to increase CARTER'S chances of being assigned future property adjustments arising from the Enterprise's arson activities."

Were this so, why was Young not utilized long prior to this final fire? For, if the RICO conspiracy holds water, he should have been a major conspirator in the affairs of the Enterprise.

Accordingly, based on the aforegoing, appellant Young's case should be reheard.

III.

This Court, in discussing the severance issue, reiterates the Kotteakos test that:

> The Constitution does not guarantee a trial free from the burdens that inevitably accompany such a trial; rather, it requires that the potential for transferability of guilt be minimized to the extent possible in order to "individualize each defendant in his relation to the mass."
> (p. 8248, slip opinion, cites omitted).

Appellant Young, as evidenced by the omissions, oversights and errors previously discussed here, never was "individualized." In brief, why have a Motion in Limine granted when it's not observed? And what's the point in raising the same prejudicial issue before this Court when, once again, it's not ruled upon - if for no other reason than the overwhelming amount of data to be considered by this Court? (n.1)

With this in mind, appellant Young's plea for rehearing based upon the severance issue must be granted since not even this Court, due to the sheer burden before it, was able to meticulously sift the data placed before it for fair consideration.

IV.

ADOPTION OF REHEARING BRIEFS AND BRIEFS FOR REHEARING EN BANC

Robert D. Young through undersigned counsel adopts the rehearing briefs and briefs for rehearing en banc of other appellants filed in this cause.

V.

CONCLUSION

ROBERT D. YOUNG asks that rehearing be granted, and that this Court's opinion be withdrawn and that Young's conviction and sentence be reversed.

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(n.1) p. 3: The severance issue also was raised by undersigned counsel at oral argument before this Court by virtue of the severance granted to defendants in a Miami RICO trial by the Honorable Jose A. Gonzalez. (United States of America v. Hawkins, et. al., Case No. 79-187- G. JAG(s). Copies of Judge Gonzalez's July 8, 1980 severance ruling were mailed and accepted by this Court the week prior to oral argument.

Respectfully submitted,

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Attorney for Appellant,
ROBERT D. YOUNG

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copy of the foregoing has been furnished, by mail, to the Honorable Sara Criscitelli, Assistant United States Attorney, Department of Justice, Post Office Box 899, Ben Franklin Station, Washington, D.C. 20044; and to William T. Fussell, Esq., 25 Davis Blvd., Tampa, Florida, 33606; William B. Plowman, Esq., 403 Madison St., Suite 500, Tampa, Fla., 33602, D. Frank Winkles, Esq., 412 E. Madison St., Tampa, Fla., 33602; Barry A. Cohen, Esq., 100 Twiggs St., Tampa, Fla., 33602, Peter A. Macaluso, Esq., 712 W. Platt St., Tampa, Fla., Michael Addison, Esq., P.O. Box 1102, Tampa, Fla., 33601; Daniel J. Newman, Esq., 205 S. Dale Mabry, Tampa, Fla., 33609; C. Steven Yerrid, Esq., 610 N. Florida Ave., Tampa, Fla., 33602; Arthur W. Fisher, Esq., Suite 700, 220 Madison St., Tampa, Florida, 33602; Raymond Laporte, Esq., 410 Ware Blvd., Suite 601, Tampa, Florida, 33619, and to Sam D. Pendino, Esq., 412 E. Madison St., Tampa, Fla., 33602 on this 31st day of July, 1981.

Attorney

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1981

No.

ROBERT D. YOUNG

Petitioner

vs.

THE UNITED STATES OF AMERICA

Respondent

ON PETITION FOR WRIT OF
CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

IN THE SUPREME COURT OF THE UNITED STATES

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October Term, 1981

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No.

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ROBERT D. YOUNG

Petitioner

vs.

THE UNITED STATES OF AMERICA

Respondent

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ON PETITION FOR WRIT OF
CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

---

Petitioner moves the Court for an order permitting him to proceed in this Court, in forma pauperis, with his Petition for Writ of Certiorari to review the decision of the 5th Circuit Court of Appeals filed on June 19, 1981 in U. S. vs. Martino, et al., 648 F.2d 367(5th Cir. 1981) pursuant to the provisions of 28 U.S.C. Section 1915 and Rule 46 of the Rules of the Supreme Court.

Petitioner is represented by appointed counsel by the U. S. District Court for the Middle District of Florida pursuant to the Criminal Justice Act of 1964, as amended, 18 U.S.C. Section 3006 and 18 U.S.C. section 3006A. Pursuant to Supreme Court Rule 46, Petitioner is not filing an affidavit with this motion.

Petitioner is entitled to redress by Petition for Writ of Certicrari to the United States Supreme Court, and his petition presents substantial questions. He is seeking relief from his conviction under the RICO statute 18 U.S.C. Section 1961 et seq.

Petitioner's Petition for Writ of Certiorari is being filed with this motion.

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CERTIFICATE OF SERVICE

I HEREBY CERITIFY that a copy of the foregoing was furnished by U. S. Mail delivery by depositing it in the U. S. Post Office, addressed to all counsel for co-defendants and to Solicitor General, Department of Justice, Washington, D.C. 20530 and Sara Criscitelli, Appellate Division, Department of Justice, P. O. Box 899, Ben Franklin Station, Washington, D.C. 20044, pursuant to Supreme Court Rule 28, this 4th day of December, 1981.